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Before the
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Washington, D.C. 20554

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In the Matter of

Inquiry Concerning the Deployment of)	
Advanced Telecommunications)	CC Docket No. 98-146
Capability to All Americans in a)	
Reasonable and Timely Fashion, and)	
Possible Steps to Accelerate Such Deployment)	
Pursuant to Section 706 of the)	
Telecommunications Act of 1996)	

COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

National Telephone Cooperative Association ("NTCA") is a national association of approximately 500 local exchange carriers that provide service primarily in rural areas. All NTCA members are small carriers that are "rural telephone companies" as defined in the Telecommunications Act of 1996. Approximately half of NTCA's members are organized as cooperatives.

I. INTRODUCTION

The rural local exchange carriers (LECs) are very much involved in the proceedings concerning advanced services. The rural carriers are keeping up with technological changes and have every intention of remaining competitive as the 21st Century approaches. As is described in detail below, several rural carriers have deployed broadband technology and the majority intend to do so. Despite the rural carriers' active deployment of advanced services, the FCC must acknowledge that there are differences between rural and urban carriers. There will always be areas

of the country where associated costs will inhibit the provision of quality service. In recognition of this fact, the FCC should adopt rules that promote true universal service and implement policies that endorse an evolving definition of universal service which includes advanced telecommunications services.

II. THERE IS A DEMAND FOR BROADBAND TECHNOLOGY IN RURAL AREAS

In response to this Notice of Inquiry, NTCA conducted a survey of its members requesting information about each company's deployment of advanced services. About half of NTCA's members responded. It is clear that most rural LECs see a demand for broadband services. When asked to estimate the current demand for advanced telecommunications services in their areas broken down according to various market segments, responding companies indicated that schools are demanding broadband service the most.¹ The medical field was on the next tier of demand, followed by businesses and then local government. Residential use created the least demand for advanced services.²

NTCA also asked its members about what types of advanced telecommunications capability their areas need most. The majority of respondents indicated that the largest need is for Internet services, followed by distance learning and tele-medicine. E-commerce and multichannel video programming were also significant.

While less than 1 in 4 responding companies have deployed Digital Subscriber Line (xDSL)

¹ 35% of responding companies indicated that schools currently create 80% of their demand for advanced telecommunications services.

² 75% of responding companies indicated that current residential demand for advanced service is 10% or less.

technology, 48%³ of respondents are planning some deployment.⁴ Companies were then asked which broadband “last-mile” technologies they have or expect to deploy within the next five years. In addition to xDSL, companies are deploying fiber, hybrid fiber coax, and wireless technology to meet their needs.⁵ The companies planning to deploy broadband technology recognized that “significant increases” in their backbone capacity were required to handle advanced telecommunications services.

The rural nature of NTCA member companies led to concerns over loop lengths. Many respondents have long local loops which exceed the 18kf limitation of xDSL technology on copper cable. One respondent indicated that the cost of redesigning its plant to meet the 18kf criteria would make a service offering unaffordable to both business and residential customers.

In addition to finding out the current state of deployment in this country, the FCC asked for information about whether rural communities are more dependent on telecommunications services than other communities. While it is difficult to quantify “more dependent” given the time constraints of this Notice of Inquiry, in order to remain economically viable, rural communities must have access to the same telecommunications services as urban communities. A rural community may

³ The percentage of subscribers who will have advanced telecommunications service available to them is much lower. NTCA only asked members to indicate whether do or have plans to deploy ANY xDSL technology. Many responding companies may provide such service to just a few select subscribers, *i.e.* schools and businesses.

⁴ 28% of responding companies have no plans to deploy xDSL technology or remain undecided.

⁵ Of the companies planning to deploy broadband “last mile” technologies, 72% are deploying xDSL, 29% fiber, 16% hybrid fiber coax, and 12% wireless. Percentages when added together equal more than 100% because some responding companies indicated that they were deploying more than one technology.

have just one major employer. If that one employer relocates from the community because of inferior telecommunications services, the results would be devastating. Conversely, a technologically advanced rural community could entice business. While it is not clear that rural residents rely any more than urban residents on advanced services, rural communities are certainly often more dependent on individual businesses. In order to remain competitive, business and industry located in rural areas must have access to the same telecommunications capabilities as the rest of the country. The economic success of many rural communities will depend on it.

The success of the children of a rural community is similarly dependent on having the same technological opportunities as the urban children. All children, no matter where situated should have access to the same educational tools. Despite the fact that it is more expensive to bring broadband technology into rural homes and schools, rural children will compete with their urban counterparts for higher education and jobs. As such, rural children require equal access to broadband technology at prices competitive with the urban areas.

III. THE FCC MUST RECOGNIZE THE REALITIES OF RURAL AMERICA IN ITS PROMOTION OF ADVANCED SERVICES

The FCC asked about how it can promote advanced services and possible reasons for slow deployment. The most important thing the FCC can do to promote broadband deployment in rural areas is to put in place policies that make the provision of advanced services economically viable. Rural carriers responding to the survey most often cited "cost to the customer" as an obstacle to deployment.⁶ Vast distances and difficult terrain make the provision of service in rural areas

⁶ 87% of respondents stated that cost to customer was an obstacle to broadband deployment.

challenging, especially where hard wires or point to point wireless service is used. This service challenge translates to higher costs for the telcos, which necessarily translates to higher prices for the consumer. When the cost to the consumer outweighs the perceived benefit, the consumer will forgo purchasing the service. When a telecommunications carrier sees little demand for a product or service, it will forgo the significant investment necessary to make it available. Thus, without policies that promote service in rural areas, many rural areas may do without.

The Telecommunications Act of 1996 dictates that “Universal service is an evolving level of telecommunications services that the Commission shall establish periodically . . . taking into account advances in telecommunications and information technologies and services.”⁷ While the FCC specifically requests comment on whether the goals of section 706 should be considered in interpreting the word “evolving,” it could hardly be more obvious that such an interpretation was Congress’ intent.⁸ As the Act directs the FCC, it must review its universal service definition regularly and establish policies based on a forward looking analysis of technology. As technology changes, the urban areas of the country will naturally enjoy the advances first. The profit margin and competition in urban markets provide incentive for technological advances. In rural communities there will always be areas where cost of providing service outweighs the profit potential. Despite

⁷ 47 U.S.C. § 254(c)(1).

⁸ See, e.g. 47 U.S.C. § 254 (b)(3), “Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including . . . advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”

this fact, the FCC is charged with advancing universal service in rural areas. The only way to make advanced services viable in many areas of the country is through universal service support.

The FCC also requested comment on its rules which may discourage investment opportunities or deployment. 32% of NTCA's member who responded to the survey said that regulatory requirements were an obstacle to broadband deployment. The FCC must continually consider the rural telcos when adopting rules or implementing policy. Often, what is not burdensome to a large LEC, is overwhelming to a rural LEC. For example, in the sister NPRM, the FCC is considering a rule that releases incumbent LECs who provide advanced services from the unbundling requirements if the services are provided through a separate affiliate. While this requirement may be reasonable and desirable for a large LEC, it may be impossible for a rural LEC. Rural LECs are limited in both their financial and human resources. Few companies can afford to hire a separate staff to run their advanced services affiliate. Those that do have the financial resources may, because of the small size of the communities, simply not have qualified people to hire. The realities of rural America often seem ignored by the FCC.

Rural LECs, while as a whole possess certain characteristics, as individuals are distinctive. The FCC should adopt rules and policies which provide the rural companies with the flexibility to serve their customers.⁹ The Commission in implementing the Telecommunications Act has adopted several rules which are very costly to the rural LECs.¹⁰ These incremental costs divert funds away

⁹ The majority of NTCA's members are organized as cooperatives, thus the subscribers are also the owners and have a single interest. The owner/subscribers need the flexibility to determine how best to serve their needs.

¹⁰ See, NTCA's Petition for Reconsideration of the Number Portability Cost Recovery Rules (CC Docket No.95-116); NTCA's Petition for Reconsideration of the Customer

from service provision. Mandatory requirements are extremely expensive on a per line basis for small companies. For example, a \$10 million expenditure spread over 20 million customers is only 50 cents per line while a \$100 thousand expenditure spread over two thousand lines is the equivalent of \$50 per line.

The FCC's continual insistence that small incumbent LECs are "dominant" is a further regulatory obstacle to rural carriers. The FCC consistently claims small LECS are not "small entities" because they are "dominant in their field of operation." This is despite the fact that the Small Business Administration (SBA) recognizes a telephone communications company with 15 hundred or fewer employees as a small business.¹¹

In 1986 the Commission apparently decided that all incumbent LECs were dominant in their local service area and thus dominant in their "field of operation."¹² However the SBA's

Proprietary Network Information Rules (CC Docket No. 96-115); NTCA's Petition for Reconsideration of Separate Subsidiary Requirement for Incumbent LECs Providing In-region, Interstate and International interexchange Services (CC Docket No. 96-149, 96-61); Comments of NTCA on Proposed OSS Performance Measurements and Reporting Requirements (CC Docket No. 98-56); Comments of NTCA on Proposed Quarterly Surveys, Data on Local Competition (CC Docket No. 91-141); Comments of NTCA on Interconnection Between LECs and Paging Carriers (CCB/CPD Docket No. 97-24); Comments of NTCA on Equal Access Requirements (CC Docket No. 92-237).

¹¹ SBA regulations state that the 1500 or fewer employee SBA standard identified by Standard Industrial Classification codes applies for purposes of the RFA. 13 C.F.R. § 121.902.

¹² In 1986, the Commission first concluded that the Regulatory Flexibility Act did not apply to incumbent LECs, no matter how small. At that time, it reasoned that every incumbent LEC, regardless of size, was not a "small entity" under Section 3 of the Small Business Act because that section excluded any business that is dominant in its field of operation. *Regulation of Small Telephone Companies. Notice of Proposed Rulemaking*, 51 Fed. Reg. 45912 (proposed December 23, 1986).

regulations clearly indicate that the “field of operation” is meant to be either the industry in which the company operates or a standard that examines the small business in a nationwide context.¹³ The Commission’s 1986 determination never considered the SBA standard and was not initially intended to satisfy the Regulatory Flexibility Analysis. The FCC has only, after the fact, relied on the 1986 analysis in repeated instances where it has failed to weigh the consequences of its decisions on small incumbent LECs.

Every time the Commission declares a rural LEC dominant or excludes it from regulatory flexibility analysis in a proceeding, it is usurping the SBA’s authority to determine what businesses are subject to protection and making a size determination. The Commission has been operating on a premise that automatically assumes the dominance of rural LECs and thus these companies have been disregarded in the regulatory flexibility analysis of past proceedings. As a result it has failed to make the necessary analysis which would cause it to consider adverse impacts on small incumbent LECs, including market entry barriers, each time it begins a proceeding to adopt regulations that affect these small entities. The Commission should adopt a new definition which classifies rural incumbent LECs as non-dominant and thus complete a regulatory flexibility check upon the initiation of every new proceeding. This approach may eliminate many regulations which are unnecessary, and sometimes nonsensical, for rural LECs and free up resources for deployment.

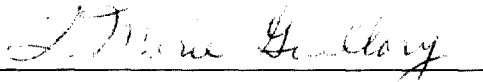
¹³ The SBA looks at factors such as “start up costs,” “historical activity within an industry” and “unique factors occurring in the industry which may distinguish small firms from large firms.” The SBA may also look at the characteristics “which may allow a concern to exercise a major controlling influence on a national basis in which a number of business concerns are engaged.” 13 C.F.R. § 121.102. From either a nationwide or industry-wide perspective, rural local exchange carriers do not exercise major controlling influence and are not dominant.

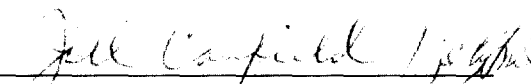
V. CONCLUSION

Many small, rural LECs are preparing for and moving forward with deployment of advanced telecommunications services. Despite the forward-looking attitude of most telcos, high costs and regulatory hurdles are real obstacles to rural deployment. In order to keep rural areas on equal footing with urban areas the FCC must adopt rules and policies which recognize these realities of rural telecommunications service.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE
ASSOCIATION

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L. Marie Guillory

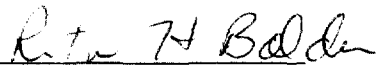
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CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 98-146, FCC 98-187 was served on this 14th day of September 1998, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


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